HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.392 of 2007

Between:

M/s. Sai Seeds, represented by its Proprietor,
M. Hari Kumar S/o. M. Jagadeeshwaraiah,
Aged about 32 years, Occ: Business, R/o. Nagarkurnool
Town and Mandal, Mahabubnagar District.

... Appellant

And

Govt. of AP., rep., by its Secretary,
Industries & Commerce (C&EP), AP Secretariat,
Hyderabad and two others.

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri G. Dhananjai

Counsel for respondent No.3 : Shri V.V.N. Narayana Rao

June 4, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 29.3.2007 passed by the learned Single Judge in Writ Petition No.6339 of 2007 whereby he refused to quash the levy of market fee on the transaction involving purchase of groundnut pods by the appellant within the limits of Agricultural Market Committee, Nagarkurnool (for short, 'the Market Committee').

The appellant is engaged in the business of buying groundnut

pods from the Market Committees and also from the cultivators and supplying the same to the Andhra Pradesh Cooperative Oil Seeds Growers Federation Limited (for short, 'the Federation') after processing. In the writ petition filed by it, the appellant questioned the levy of market fee by contending that the groundnut pods purchased by it were processed and supplied to the Federation as seeds and, therefore, the same cannot be treated as "agricultural produce" for the purpose of levy of market fee in terms of Section 12 of the Andhra Pradesh (Agricultural Produce & Livestock Markets) Act, 1966 (for short, 'the Act'). The appellant also questioned the levy by contending that the demand made by the Market Committee was excessive.

The learned Single Judge referred to the order passed by this Court in Writ Petition No.13527 of 2004 and batch, wherein this Court held that seed grown by farmers from out of the foundation seed supplied by the seed companies cannot be treated as "agricultural produce" and the sale or purchase thereof does not attract the provisions of the Act, but distinguished the same by observing that the seed purchased by the writ petitioner from farmers and other suppliers is not grown out of any foundation seed and there does not exist any agreement for reproduction of the seed, as in the case of the seeds procured by the certified seed companies.

Shri G. Dhananjai assailed the order of the learned Single Judge by arguing that the view taken by him on the interpretation of the term "agricultural produce" and levy of market fee on groundnut pods is contrary to the law laid down by the Supreme Court in **Krishi Utpadan Mandi Samiti & Others v. Pilibhit Pantnagar Beej Ltd. and another**[1]. Shri Dhananjai submitted that the appellant is not engaged in the sale and purchase of any agricultural produce and the transaction involving purchase of groundnut pods cannot be subjected

to market fee.

Shri V.V.N. Narayana Rao, learned counsel for the Market Committee relied on the definition of "agricultural produce" contained in Section 2 (i) of the Act and argued that the levy of market fee on the purchase of groundnut pods by the appellant cannot be declared illegal because the same has been notified as an "agricultural produce" under Section 3 (3) of the Act.

We have given serious thought to the respective arguments. The definition of the term "agricultural produce" contained in Section 2(i) and Section 12, which is the charging section, read as under:

> "**2(i)** 'Agricultural produce' means anything produced from land in the course of agriculture or horticulture and includes forest produce or any produce of like nature either processed or unprocessed and declared by the Government by notification to be agricultural produce for the purposes of this Act.
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> **12. Levy of fees by the market committee:-** (1) The market committee shall levy fees on any notified agricultural produce, livestock or products of livestock purchased or sold in the notified market area at such rate, not exceeding two rupees as may be specified in the bye-laws for every hundred rupees of the aggregate amount for which the notified agricultural produce, livestock or products of livestock is purchased or sold, whether for cash or deferred payment or other valuable consideration.
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> **Explanation I:-** For the purposes of this section, all notified agricultural produce, livestock or products of livestock taken out of a notified market area shall, unless the contrary is proved, be presumed to have been purchased or sold within such area.
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> **Explanation II:-** In the determination of the amount of fees payable under this Act, fractions of ten paise equal to or exceeding five paise shall be counted as ten paise and other fractions of ten paise shall be disregarded.
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> (2) The fees referred to in sub-section (1) shall be paid

by the purchaser of the notified agricultural produce, livestock or products of live stock:

Provided that where the purchaser cannot be identified the fees shall be paid by the seller".

A conjoint reading of the definition of the agricultural produce and the charging section makes it clear that every transaction involving purchase or sale of notified agricultural produce, livestock or products of livestock is subject to levy of market fee.

There is no dispute between the parties that vide notification dated 29.10.1968 issued under Section 3 (3) of the Act, the State Government has notified various items as "agricultural produce". Groundnut pods and Kernels find place at Serial No. 30 of the Schedule II appended to that notification. Therefore, any transaction of sale or purchase of groundnut pods by the appellant would attract levy of market fee in terms of Section 12 of the Act and the mere fact that groundnut pods purchased by the appellant from the area falling within the jurisdiction of Market Committee are processed and supplied to the Federation for the purpose of being used as oil seeds cannot absolve it from the liability to pay the market fee. The appellant has not questioned the vires of Section 2 (i) and 3 (3) of the Act or notification dated 29.10.1968. Therefore, the action of the Market Committee to levy and collect market fee on the transaction involving purchase of groundnut pods cannot be declared illegal.

The judgment of the Supreme Court in **Krishi Utpadan Mandi Samiti & Others v. Pilibhit Pantnagar Beej Ltd. and another** (supra), on which the learned counsel for the appellant heavily relied, is clearly distinguishable. In that case, the Supreme Court interpreted the provisions of U.P. Krishi Utpadan Mandi Adhiniyam, 1964 and held that certified seeds which are coated by insecticides, chemicals and

other poisonous substances and thereby loose their utility as foodgrains would fall outside the purview of the Act. The Supreme Court noted that wheat seed is not included in the Schedule appended to the Act and, held, the Mandi Samiti cannot levy market fee on the transaction involving purchase or sale of certified seeds.

In the present case, the groundnut pods, which are purchased by the appellant, has been notified as an agricultural produce. Therefore, the levy of market fee on the purchase of groundnut pods cannot be nullified by applying the ratio of the above noted judgment of the Supreme Court.

In the result, the appeal is dismissed.

At this stage, Shri G. Dhananjai, learned counsel for the appellant made a request for grant of three months time to his client for deposit of the balance amount of market fee. Shri V.V.N. Narayana Rao opposed the request of Shri G. Dhananjai.

Having considered the respective submissions, we deem it proper to grant six weeks time to the appellant to deposit the balance market fee.

As a sequel to dismissal of the appeal, WAMP No. 746 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

June 4, 2007

C.V. NAGARJUNA REDDY, J

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[1] 2003 (10) SCALE 432